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SENATE BILL 932

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO SEX OFFENDERS; PROVIDING FOR LIFETIME PAROLE
SUPERVISION FOR CERTAIN SEX OFFENDERS; CLARIFYING STANDARD OF
PROOF; INCREASING THE PERIOD OF PAROLE FOR CRIMINAL SEXUAL
CONTACT OF A MINOR IN THE FOURTH DEGREE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-21-10.1 NMSA 1978 (being Laws 2003
(1st S.S.), Chapter 1, Section 9) is amended to read:

"31-21-10.1. SEX OFFENDERS--PERIOD OF PAROLE--TERMS AND
CONDITIONS OF PAROLE.--

A. If the district court sentences a sex offender
to a term of incarceration in a facility designated by the
corrections department, the district court shall include a
provision in the judgment and sentence that specifically
requires the sex offender to serve an indeterminate period of

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1 supervised parole for a period of:

2 (1) not less than five years and not in excess
3 of twenty years for the offense of kidnapping when committed
4 with intent to inflict a sexual offense upon the victim,
5 criminal sexual penetration in the third degree, criminal
6 sexual contact of a minor in the fourth degree or sexual
7 exploitation of children in the second degree; or

8 (2) not less than five years and up to the
9 natural life of the sex offender for the offense of criminal
10 sexual penetration in the first or second degree, criminal
11 sexual contact of a minor in the second or third degree or
12 sexual exploitation of children by prostitution in the first or
13 second degree.

14 A sex offender's period of supervised parole may be for a
15 period of less than [~~twenty years~~] the maximum if, at a review
16 hearing provided for in Subsection [B] C of this section, the
17 state is unable to prove that the sex offender should remain on
18 parole.

19 B. Prior to placing a sex offender on parole, the
20 board shall conduct a hearing to determine the terms and
21 conditions of supervised parole for the sex offender. The
22 board may consider any relevant factors, including:

23 (1) the nature and circumstances of the
24 offense for which the sex offender was incarcerated;

25 (2) the nature and circumstances of a prior

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1 sex offense committed by the sex offender;

2 (3) rehabilitation efforts engaged in by the
3 sex offender, including participation in treatment programs
4 while incarcerated or elsewhere;

5 (4) the danger to the community posed by the
6 sex offender; and

7 (5) a risk and needs assessment regarding the
8 sex offender, developed by the sex offender management board of
9 the New Mexico sentencing commission or another appropriate
10 entity, to be used by appropriate parole board personnel.

11 ~~[B. The board shall review the terms and conditions~~
12 ~~of a sex offender's supervised parole at two and one-half year~~
13 ~~intervals.]~~

14 C. When a sex offender has served the initial five
15 years of supervised parole, and at two and one-half year
16 intervals thereafter, the board shall ~~[also]~~ review the
17 duration of the sex offender's supervised parole ~~[at two and~~
18 ~~one-half year intervals. When a sex offender has served the~~
19 ~~initial five years of supervised parole]~~. At each review
20 hearing, the ~~[state]~~ attorney general shall bear the burden of
21 proving ~~[to a reasonable certainty]~~ by a preponderance of the
22 evidence that the sex offender should remain on parole.

23 ~~[C.]~~ D. The board may order a sex offender released
24 on parole to abide by reasonable terms and conditions of
25 parole, including:

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1 (1) being subject to intensive supervision by
2 a parole officer of the corrections department;

3 (2) participating in an outpatient or
4 inpatient sex offender treatment program;

5 (3) a parole agreement by the sex offender not
6 to use alcohol or drugs;

7 (4) a parole agreement by the sex offender not
8 to have contact with certain persons or classes of persons; and

9 (5) being subject to alcohol testing, drug
10 testing or polygraph examinations used to determine if the sex
11 offender is in compliance with the terms and conditions of his
12 parole.

13 [~~D.~~] E. The board shall notify the chief public
14 defender of an upcoming parole hearing for a sex offender
15 pursuant to Subsection C of this section, and the chief public
16 defender shall make representation available to the sex
17 offender at the parole hearing.

18 [~~E.~~] F. If the board finds that a sex offender has
19 violated the terms and conditions of [~~his~~] parole, the board
20 may revoke [~~his~~] parole or may [~~order additional~~] modify the
21 terms and conditions of parole.

22 [~~F.~~] G. The provisions of this section shall apply
23 to all sex offenders, except geriatric, permanently
24 incapacitated and terminally ill inmates eligible for the
25 medical and geriatric parole program as provided by the Parole

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1 Board Act.

2 [G-] H. As used in this section, "sex offender"
3 means a person who is convicted of, pleads guilty to or pleads
4 nolo contendere to any one of the following offenses:

5 (1) kidnapping, as provided in
6 Section 30-4-1 NMSA 1978, when committed with intent to inflict
7 a sexual offense upon the victim;

8 (2) criminal sexual penetration in the first,
9 second or third degree, as provided in Section 30-9-11 NMSA
10 1978;

11 (3) criminal sexual contact of a minor in the
12 second, [~~or~~] third or fourth degree, as provided in Section
13 30-9-13 NMSA 1978;

14 (4) sexual exploitation of children in the
15 second degree, as provided in Section 30-6A-3 NMSA 1978; or

16 (5) sexual exploitation of children by
17 prostitution in the first or second degree, as provided in
18 Section 30-6A-4 NMSA 1978."

19 Section 2. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2007.

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